

EXHIBIT A

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

U.S. EQUAL EMPLOYMENT :
OPPORTUNITY COMMISSION, :
Plaintiff, : CIVIL ACTION NO.
v : 2:17-cv-00073
BIG LOTS STORES, INC., :
Defendant. :

* * *

Deposition of Christena Johnson

Tuesday, April 17, 2018

* * *

a witness herein, taken on behalf of the defendant in
the above-entitled cause of action, pursuant to notice
and the Federal Rules of Civil Procedure, by and before
Connie M. Nichols, Registered Professional Reporter and
Notary Public within and for the State of West Virginia,
at the Isaac Jackson Hotel, 830 Harrison Avenue, Elkins,
West Virginia 26241, commencing at 10:25 a.m.

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1 Q. What was Rich's last name?

2 A. I do not know, sir.

3 Q. Okay.

4 And what was Rich's job title?

5 A. He was the manager.

6 Q. Okay.

7 And do you know why Rich left?

8 A. No, I do not.

9 Q. How did you hear that Rich had left?

10 A. Vickie Hamrick told me.

11 Q. Okay.

12 What is Vickie Hamrick's job?

13 A. She's underneath Rich. So she would be like
14 the associate manager type thing. Because he was the
15 manager.

16 Q. So is Vickie the most-senior manager in the
17 store now that Rich is gone?

18 A. As I was told by her, yes. She's the one
19 that's doing all of the stuff right now until they hire
20 someone.

21 Q. Okay.

22 How long have you been employed with Big Lots?

23 A. Seven years.

24 Q. What was the first position that you held?

1 A. I was a cashier.

2 Q. Okay.

3 And when you started, did you -- were you
4 limited to just doing the cashier duties?

5 A. Yes.

6 Q. Okay.

7 Who was the store manager at the time you were
8 hired?

9 A. Donna -- but I can't think of her last name.
10 Donna Long is what her last name was.

11 Q. Okay.

12 And who was the manager that replaced Donna?

13 A. Dave Perry.

14 Q. Okay.

15 And who was the manager that replaced Dave
16 Perry?

17 A. Rich.

18 Q. Okay.

19 And you said Rich was there until about two
20 weeks ago.

21 A. Yes.

22 Q. Okay.

23 How long had -- you said the last two weeks
24 Vickie Hamrick has been filling in for Rich --

1 **What were the stock duties?**

2 A. That's whenever you unload the truck and then
3 you would put the truck out. And then after you do all
4 that, then you throw the boxes in the thing, and then
5 you crush the boxes and straighten up the stockroom, and
6 plus I also did cashier too.

7 Q. Okay.

8 **So after about six months at Big Lots, you**
9 **had -- you continued to work the cashier -- as a cashier**
10 **but also did the stock duties.**

11 A. Uh-huh.

12 Q. Yes?

13 A. Yes.

14 Q. Did -- the stock duties, do they involve
15 **taking the merchandize from the stockroom to the shelves**
16 **or --**

17 A. Yes.

18 Q. Okay.

19 **And how long did you do the cashier and stock**
20 **duties together?**

21 A. For years.

22 Q. Did there come a time where you acquired
23 **additional duties in addition to the cashier and stock?**

24 A. Yeah, I went straight from stock to furniture.

1 And, of course, I did stocking, too, and cashier.

2 Q. Okay.

3 A. I did it all.

4 Q. You earlier described your current role,
5 saying you're doing a combination of cashier, stock,
6 recovery and furniture.

7 A. Uh-huh.

8 Q. Okay.

9 Yes?

10 A. Yes.

11 Q. Okay.

12 The -- what duties did you perform in
13 furniture?

14 A. I would take furniture we unloaded from the
15 truck and we'd put it back in the stockroom where it
16 goes. We used to make tags, which I did that, I would
17 take make the tags of what the furniture was. And then
18 I'd take it back there and I would put it on like the
19 couches that they belong to, or the chairs, or whatever
20 went back in the back, to locate what they was. So
21 whenever any employees would go back there to look for a
22 specific couch, you would have that little orange tag on
23 there to see what it was so you could make sure you get
24 the right couch out and stuff.

1 I didn't put furniture together. I did one
2 piece and it fell apart, so they told me not to do that
3 no more.

4 Q. My wife told me the same thing.

5 The recovery duties, is that cleaning up the
6 shelves, returning items to the shelves?

7 A. It was returning items to the shelves that was
8 in the buggy. And also it was to take the stuff -- like
9 if like the shampoo's like in the back and you can't --
10 it ain't in the front, you just pull every items up so
11 people -- or so customers can get to them easier so they
12 don't have to climb up on the shelves and pull from
13 clear back in the back if they needed it or whatever.

14 Q. Okay.

15 A. And then, of course, we always had stock stuff
16 on top, and if we needed to bring them down, we can
17 always bring them down. That would be also recovery.

18 Q. Did you ever perform the role of a support
19 manager at Big Lots?

20 A. I was a fourth key holder at Christmastime.

21 Q. Okay.

22 What -- is that the same as a support manager
23 or is that something different?

24 A. No, that was just -- I have a fourth key -- I

1 As of the holiday season of 2014, did you have
2 any management experience?

3 A. I would say no. I want to say no on that.

4 Q. Okay.

5 Well, it's a good time for me to ask: Before
6 you started with Big Lots, where were you working?

7 A. Nowhere, I was a home mom.

8 Q. Okay.

9 A. Stay home.

10 Q. Why did you first seek employment at Big Lots?

11 A. I got a divorce from my ex-husband and I
12 needed to support my children.

13 Q. Did Dave or Douglas tell you why they wanted
14 to get you manager experience?

15 A. Because I was trying for manager's -- I was
16 trying for manager's positions and Dave Perry told me I
17 didn't qualify for anything. So Douglas said -- they
18 told me that if I did this, that I'd be able to go
19 further along and see how I do on this.

20 Q. Okay.

21 What were the duties of this fourth key
22 position?

23 A. It was coming in, like, middle shifts. Well,
24 I would come in the middle shifts between the morning's

1 Q. In 2013 you're -- the position you held.

2 A. Yes. I'm just part-time person still.

3 Q. Okay.

4 When -- do you recall when you told Mr. Perry
5 that you wanted more hours?

6 A. I don't remember when. I just talked to him
7 about it beforehand. I told him that I'd like to have
8 more hours.

9 Q. Had you told him more than once that you
10 wanted more hours?

11 A. Yes.

12 Q. Okay.

13 Did you volunteer to actually work at other
14 Big Lots locations in an effort to get more hours?

15 A. Yes. And I have done that.

16 Q. And did Mr. Perry take you with him to other
17 stores on occasions?

18 A. Yes.

19 Q. And did he do that because he wanted to get
20 you more hours?

21 A. Yes.

22 Q. And had you told him that you were interested
23 in getting as many hours as he could give you?

24 A. Yes.

1 Q. You tell him that was because you wanted to
2 make as much money as possible for your children?

3 A. Yes.

4 Q. Do you recall what other Big Lots store
5 locations you worked at, other than the Elkins store?

6 A. Bridgeport, Fairmont, Morgantown.

7 Q. How often would you -- let's just focus on the
8 time where Mr. Perry was the store manager at the Elkins
9 store.

10 How often would Mr. Perry assign you or offer
11 you an opportunity to work at another Big Lots store
12 location?

13 A. Every time that they would call and tell him
14 that they needed help.

15 Q. How often did that come up? Is that every
16 month or a couple times a year?

17 A. Mainly right around Thanksgiving and
18 Christmastime. So that's when mainly they needed more
19 help than anything. And I would go up and put stock
20 out.

21 Q. And do you recall when Mr. Perry left his
22 employment at Big Lots?

23 A. No.

24 Q. Do you still on occasion get assigned to work

1 computer." He said, "I'll let you know."

2 And then that morning I came in -- one morning
3 I came in and he told me that it was going in the
4 computer. I went over to furniture and I put my
5 application in. And then afterwards I told him that I
6 put my application in.

7 Q. Okay.

8 After that, did he say anything else to you?

9 A. He just took me in the office and he says
10 that, "I know that you put your application in and you
11 went to training and all that up there in Morgantown."
12 But he says, "I'm going to let you know something,
13 Bobbi's getting that position."

14 Q. Did he say why Bobbi was getting that
15 position?

16 A. He said that she's been there longer and that
17 she's more qualified for it.

18 Q. Do you know who made the decision on who got
19 that furniture position?

20 MS. HERNANDEZ: Objection. Foundation.
21 Go ahead.

22 THE WITNESS: I'm so sorry.

23 MS. HERNANDEZ: It's okay. Just wait.
24 Just wait until, you know, until I object and then --

1 THE WITNESS: Okay.

2 MS. HERNANDEZ: But go ahead.

3 A. No.

4 BY MR. CLARK:

5 Q. You don't know who made the decision?

6 A. Huh-uh.

7 Q. Do you know if Dave made the decision?

8 A. No. I do not know.

9 Q. Did Dave tell you whether or not he was going
10 to be involved in filling that furniture position?

11 A. He just said that he's the manager. Only
12 thing he told me.

13 Q. Okay.

14 Did -- were you ever interviewed for the
15 furniture position?

16 A. Yes.

17 Q. Who interviewed you?

18 A. Not Douglas, the other guy. I can't think of
19 the name now. It's not Tanner, it's not Douglas, it's
20 the one in-between them. Yeah, it is Douglas, because
21 Donovan left. I met with Douglas, that interviewed me.

22 Q. Where did that interview take place?

23 A. In the office at the Elkins Big Lots.

24 Q. Was anyone else present for the interview?

1 Q. Okay.

2 And after that conversation with Mr. Perry,
3 did you start to do that?

4 A. Yeah.

5 Q. And did he ever raise this issue with you
6 again, after the evaluation?

7 A. No.

8 Q. Okay.

9 MR. CLARK: We've been going about an hour.
10 Are you doing all right? Want to take a break?

11 THE WITNESS: No, I'm good.

12 * * *

13 (Whereupon, Johnson Deposition Exhibit
14 No. 6 was marked for purposes of identification.)

15 * * *

16 BY MR. CLARK:

17 Q. Ms. Johnson, we've just placed in front of you
18 a document marked as Exhibit 6. It's titled
19 Acknowledgement of Receipt of Harassment Free Policy.

20 Do you recognize Exhibit 6?

21 A. Yes.

22 Q. What is it?

23 A. It's a harassment that -- it's a policy that's
24 saying that I understand that I agree that nothing would

1 happen. You know, like you can't harass anybody, you
2 can't make fun of people, you can't do any of that stuff
3 to this.

4 Q. And there's a signature line for associate
5 signature. Is that your signature on Exhibit 6?

6 A. Yes.

7 Q. Okay.

8 And below your signature is a line, associate
9 ID number. There's a number printed there. Is that the
10 associate number that you were issued by Big Lots?

11 A. Yes.

12 Q. Okay.

13 And the store number, 458, is that the Elkins
14 Big Lots store location?

15 A. Yes.

16 Q. The form is dated August 3 of 2011. Do you
17 recall signing Exhibit 6 on that date?

18 A. Yes.

19 Q. Okay.

20 Do you recall where you were when you signed
21 Exhibit 6?

22 A. I was in the office at Big Lots.

23 Q. Okay.

24 And at the time you received and signed

1 A. No.

2 Q. Did you have any problems with any other
3 associates in the store while Ms. Long was the manager
4 at the Elkins store?

5 A. Yes, and she took care of it.

6 Q. Okay.

7 A. And they stopped. Well, I should say she
8 stopped. Because it was just one person.

9 Q. Who was the one person you had an issue with?

10 A. Shelia.

11 Q. Okay.

12 What's Shelia's last name?

13 A. Berbera? (sic) I can't say it.

14 Q. What's your best guess?

15 A. Berbera. Starts with a B.

16 Q. And what problems did you have with Shelia
17 while Ms. Long was the manager at the Elkins store?

18 A. She got on the phone -- or I should say the
19 intercom, and she said the same thing that I said, but
20 it was like mocking me, trying to mock me. And Donna
21 heard it from the office, and she came out there and she
22 said for her to go home. She told her to clock out and
23 go home. She said, "I won't tolerate that."

24 Q. Just that one occasion?

1 A. That, I can't recall if I did, if I didn't.

2 Q. Okay.

3 But you know that's your signature on Page 1
4 and Page 2.

5 A. Yes.

6 Q. Okay.

7 The charge references disability
8 discrimination. Are you disabled?

9 A. Yes.

10 Q. How so?

11 A. I'm deaf in my right ear.

12 Q. Do you have any other impairments that you
13 believe constitute a disability other than your right
14 ear?

15 A. No.

16 Q. Okay.

17 How long have you had the impairment of the
18 hearing of your right ear?

19 A. All my life.

20 Q. From birth?

21 A. Yes.

22 Q. Does the -- during your employment with
23 Big Lots, did you have any work restrictions or
24 limitations as a result of your hearing impairment?

1 A. No.

2 Q. Has your hearing impairment impacted your
3 performance of any other jobs that you've held?

4 A. No.

5 Q. Okay.

6 Does your hearing impairment impact your -- or
7 impose any limitations on your life outside of work?

8 A. No.

9 Q. Are you under -- I guess let's focus on the
10 2015 time period, were you receiving any medical
11 treatment or therapy for or related to your hearing
12 impairment?

13 A. No.

14 Q. And looking back at the first page of
15 Exhibit 7, it says -- where the box says "the
16 particulars are," it says: On August 1, 2010, I started
17 my employment with Big Lots.

18 A. Yes.

19 That's wrong.

20 Q. Okay.

21 A. Supposed to be August 30 of 2011.

22 Q. Okay.

23 Do you know how that error got on there?

24 A. No, I do not.

1 wrong.

2 Q. Okay.

3 So, but do you still believe you read it
4 before you signed Exhibit 7?

5 A. I think I did.

6 Q. Okay.

7 A. But it's all wrong.

8 Q. Okay.

9 Let's just focus on the statement it says:
10 During the course of my employment the staff made fun of
11 me because of my disability.

12 Do you see that statement?

13 A. Yes.

14 Q. Who on the staff made fun of you because of
15 your disability?

16 A. Shelia, there's Bobbi, there's Kellie, there's
17 Pam.

18 Q. And what did Shelia do to make fun of you
19 because of your disability?

20 A. Shelia. Okay. Well, first of all, she mocked
21 me. If I come in and if I didn't say her name
22 correctly, she would -- if I said "Shelia," she would
23 said, "Shelia! Shelia! Why don't you get my name
24 correctly? Why don't you just go home, you retard."

1 Q. Okay.

2 So when you talked earlier about the fourth
3 key-holder position --

4 A. I was --

5 Q. -- you were in that line, it's just the
6 numbers.

7 A. I was in there way low, yeah. I was just -- I
8 was just a key -- what they did with me and what they do
9 with everybody else is like at Christmastime, they would
10 give you a key, they would have an extra manager, which
11 would be the lower one, which I would be four or five
12 key holder. Because they would want that extra manager
13 there just in case in the evenings or in-between the
14 first and third manager would come in. So you would
15 just come in in-between and take care of stuff.

16 I mean you don't do as much as, you know, the
17 regular manager does or the night-shift manager does.
18 But you do, you know, that's to help you train yourself
19 to get you prepared to be what a manager is at Big Lots.

20 Q. Okay.

21 So you said that -- that Kellie actually saw
22 Shelia mock you?

23 A. Oh, yeah. She would do the same thing.

24 Q. Anybody else witness Shelia mocking you?

1 **Q. -- how often?**

2 A. She did it with Donna that one time, and then
3 when Donna sent her home, that was it for -- until Dave
4 started. And then whenever Dave became the manager
5 there, then that's when she really started. Just
6 picking on me, calling me names. Saying that she's the
7 CSS and that I better listen to her or she's going to
8 send me home. Changing my schedule around.

9 I would think my schedule is this day, and
10 then I would come in -- because I would check it, and
11 I'd write down my schedule. And then the next day I'll
12 come in at such a time, and Dave would jump me and tell
13 me, "Christena, you're supposed to be in at this
14 such-and-such a time."

15 And I would say, "Dave, let's see what the
16 schedule says here in this book."

17 And he then he would go up there and he would
18 see that someone erased my schedule and put Shelia on
19 there. And then he would ask Shelia, and she said,
20 "Yeah, I'm the CSS, I can do what I want."

21 **Q. Is that true? Is the CSS allowed to change**
22 **the schedule?**

23 A. I do not know, sir. I couldn't tell you.

24 **Q. Of the associates in the Elkins store, did you**

1 Q. Did you ever talk to other associates about
2 the number of hours they were being scheduled for?

3 A. Yes. And everybody didn't have a problem with
4 it.

5 Q. Nobody told you they thought you were -- it
6 was unfair that you were getting more hours than they
7 were?

8 A. No. Except for Shelia.

9 Q. Okay.
10 So Shelia did have a problem with the number
11 of hours.

12 A. Yes.

13 Q. And how do you know that?

14 A. She would tell me.

15 Q. And when did she tell you that?

16 A. Whenever I -- if I got an hour -- if, like,
17 say if I got 35 hours and she only got 34-1/2, she would
18 take five of my hours from me and she would put it on
19 herself. And she would tell me, "Well, you don't
20 deserve no hours."

21 Q. Was she hostile to you when she told you that?

22 A. Oh, yes.

23 Q. Okay.

24 When did she first start to demonstrate some

1 That's all the freight in the back. They expect that
2 stuff to be out on the shelves, not sitting back there
3 in the stockroom.

4 So whenever -- if Dave would ask me if I would
5 do that, that's where I got my extra hours, because I
6 would do stuff like that.

7 Q. Did Shelia ever make any comments to you about
8 your hearing impairment?

9 A. She called me deaf, stupid, retarded.

10 Q. Is that all at one time or are those
11 separate --

12 A. Those are all just separate times.

13 Q. Okay.

14 Do you recall when she called you deaf?

15 A. Yeah, she called deaf.

16 Q. Do you recall when?

17 A. Just in the evenings, whenever her and Kellie
18 would be working together.

19 Q. Was it every time they worked together she --

20 A. Almost every time that they worked together.

21 Q. What -- in what context?

22 A. Well, she -- if I would say, "Shelia, can you
23 answer the phone?"

24 She'd say, "Can't you answer it, you deaf

1 person?"

2 And then I'd say, "Okay." So I'd answer it.

3 And then her and Kellie would stand there, and
4 while I'm trying to talk to -- when you're deaf, when
5 you're trying to talk to someone on the phone, you only
6 have the one ear. And whenever someone's in -- right
7 behind you, right in your ear, laughing at you and
8 you're trying to hear your customers, that's pretty
9 hard.

10 And you turn around and you go, "Shh, I'm
11 trying to listen."

12 "Oh, you deaf person!"

13 And that's whenever Kellie would start.

14 **Q. What would Kellie --**

15 A. That's when she would say, "You deaf person,
16 get off the phone if you can't hear anybody."

17 **Q. Kellie would say the same thing --**

18 A. Yes.

19 **Q. -- call you deaf.**

20 A. (The witness nodded her head.)

21 **Q. Okay.**

22 **When did Shelia call you retarded?**

23 A. Whenever she had a chance. In the evenings,
24 during the day, whenever I would be working. If I asked

1 her something and if she was mad, she'd call -- she
2 would just say, "Go away, retard."

3 Q. What was -- do you know what she was mad
4 about?

5 A. No.

6 Q. Was she mad at you or just mad in general?

7 A. Just mad in general. Throwing things,
8 throwing the register around, you know, picking up the
9 register and banging it because it wouldn't close right
10 or something or -- and then if someone was to say,
11 "Christena, can you go get her to stop because, you
12 know, we're busy."

13 And I would say, "Shelia, we got customers in
14 the store, you got to calm down."

15 "Go away, you retard."

16 Q. Did she call other people retard?

17 A. No. As I heard, no.

18 Q. Okay.

19 Did other people hear Shelia call you retard?

20 A. If they did, they never said anything to me.

21 Q. You also said that Shelia called you stupid?

22 A. Yes.

23 Q. Okay.

24 In what context did she call you stupid?

1 A. If I asked for help or anything. Like if I
2 asked for help over there in furniture or something, if
3 her and Bobbi standing there, and I would say, "Bobbi,
4 can you come and help me in furniture?"

5 Shelia would look at me and say, "Well,
6 Christena, can't you do it? Or are you stupid or what?"

7 Or I would say, "Bobbi, can you go over here
8 and look for this type of furniture because I can't -- I
9 don't see it over here."

10 "What are you? Stupid?"

11 **Q. Would you say anything in response to her?**

12 A. Only thing I said is, "No, I'm not stupid.
13 Shelia, please stop calling me names."

14 **Q. Did -- you said earlier that Bobbi also made**
15 **fun of you because of your disability.**

16 A. Yes.

17 **Q. How so? What did Bobbi do?**

18 A. The same stuff.

19 **Q. What specifically did Bobbi do?**

20 A. And then -- specifically?

21 **Q. Yes.**

22 A. Bobbi would -- if I would ask her to help me
23 over there in furniture and stuff, she would do the same
24 stuff. "What are you? Stupid? Retarded? Can't you do

1 A. If I asked Bobbi to ask -- to help me, she
2 would call me stupid and retarded and the same thing.
3 And then they would all sit around and laugh at me.

4 **Q. Okay.**

5 A. One night I asked for Bobbi to help me with
6 furniture. I had a kitchen cart, and the guy wanted to
7 take it with him, and I had one. And I came over and I
8 asked Bobbi, I said, "Bobbi," I said, "Can you help?"
9 And the guy was standing there, and he stood
10 right there beside me and he said, "I'll help you lift
11 it up."

12 And I said, "No, you can't go back there,
13 sir." I said, "But I appreciate it."

14 And she said, "Well, I'm not lifting that
15 furniture."

16 Well, I lifted the kitchen cart up on the -- I
17 want to call it -- we call it like a mattress cart. And
18 I lifted it up on there and I carried it out. He paid
19 for it; I took it up to the register; I signed my paper
20 saying that, you know, that he's taking it. I took it
21 out to his truck. And I asked Bobbi and Kellie, because
22 they both was up front, I asked them to hold the doors
23 open so I can, you know, to get it out.

24 And Kellie said, "I'm eating dinner, get it

1 yourself, you retard."

2 And the guy looked at her and said, "She's not
3 a retard. She's doing the best that she can by herself
4 because none of you want to help her."

5 So he held one door, and I opened up the other
6 and I pushed the cart out. And I was trying to lift the
7 kitchen cart on top of his truck, and I couldn't get it
8 up on top. And he looked inside -- he went inside and
9 he asked them, he says, "Can you not help this poor
10 woman?"

11 And they laughed at him.

12 Because he came back out and says, "Whenever
13 you get done," he says, "I'm going to help you." He
14 says, "Whenever you get done, I want the number," he
15 says, "because I'm calling." He said, "This is" -- and
16 this is the word that he used -- "this is bullshit,
17 because you're out here struggling and they're in there
18 laughing at you, eating."

19 And I said, "I'm sorry, sir."

20 **Q. Do you recall when this was?**

21 A. 2015. I think it was back in August or
22 October. It was like almost wintertime, so it would
23 have been in October.

24 **Q. October of what year?**

1 A. 2015.

2 Q. And you mentioned that the customer had asked
3 for a number.

4 A. Yes. I --

5 Q. Whose number?

6 A. He wanted the corporate's number. He wanted
7 to call. And I had came back in, I got the paper, I
8 looked it up, I got me a piece of paper, I wrote down
9 the number, he came in and he looked at all three of
10 them.

11 And he says, "I'm calling in all three of
12 you."

13 He says, "This is bull."

14 He says, "There is no sense in this, when the
15 woman's asked you several times to help her."

16 Q. And what position did Bobbi hold at this time?

17 A. She was just a cashier. But she was over
18 there in furniture working with me that night.

19 Q. So if Bobbi ultimately took the furniture
20 manager position in early 2015, would this have been --

21 A. October 2015, yeah, then she was furniture
22 manager. And she didn't do it.

23 Q. It was -- well, was she furniture manager or
24 she was --

1 A. She was doing both.

2 Q. -- or it was a different time?

3 A. She was doing both that time. So it might
4 have been 2014, 2013 then.

5 Q. Do you know?

6 A. No.

7 Q. Okay.

8 How do you recall it being in October?

9 A. Because it was -- it was two weeks after
10 Forest Festival.

11 Q. What's that?

12 A. It's a thing that we have down here in Elkins,
13 it's a carnival with rides.

14 Q. Okay.

15 How do you recall that this incident was after
16 that festival?

17 A. Because I have that written down on my
18 paperwork.

19 Q. What paperwork are you referring to?

20 A. The ones that I was told to keep track of when
21 things happens to me.

22 Q. Who told you to keep track of things happening
23 to you?

24 A. Sheria Blackburn and Jane, the one that we was

1 **Q. Why not?**

2 A. Because it was mine.

3 I talked to Dave about it. I told Dave, and
4 Dave was supposed to do something, and then he never
5 done anything. Until one day, I just went in there and
6 I just -- I was mad. I came into the store and I told
7 him --

8 I said, "We need to talk."

9 I took him into the office.

10 I said, "Dave -- "

11 I said, "I'm very upset with you."

12 I said, "I have gave you chances after chances
13 after chances."

14 I said, "I have asked you to do something with
15 Bobbi. I've asked you to do something with Shelia.
16 I've asked you to do something with Pam. I've asked you
17 to do something with Kellie."

18 And I said, "You refused to do anything with
19 them."

20 So I said, "I think what we need to do is go
21 to higher up."

22 And that's whenever he said, "Don't do that."

23 He says, "Give me another chance. I'll take
24 care of it, because we do not want anyone to come down

1 A. I just told them, I said, "You all need to
2 stop."

3 And then I tried to ignore it. And some
4 nights it was harder than others, but I tried my best to
5 ignore, because I have to have a job. So I just try to
6 focus on my job and focus on doing other things and
7 staying away from them as much as possible.

8 **Q. Why did you not call Mr. Bond when the**
9 **harassment resumed?**

10 A. Because I went back to Dave and I told Dave,
11 and he said that he would take care of it. He said that
12 he was going to call him and talk to him and see what
13 needs to be done. And I let it go and go and go.

14 I just kept asking them stop. When I would be
15 around, if they said anything, called me stupid and
16 retarded, fuzzy bunny, whatever they wanted to call me
17 at that time.

18 I'd say, "Please stop. Please stop doing
19 this. I'm not a person, you know, to make fun of
20 but" --

21 **Q. What -- fuzzy bunny, do you know what that's a**
22 **reference to?**

23 A. I had some hair on my black shirt, and Bobbi
24 called me fuzzy bunny.

1 dogs and cats has got hairs, so it's all over your
2 shirt.

3 Q. Okay.

4 So I had previously asked you about the ways
5 in which Bobbi had mistreated you or made fun of you.
6 You had -- she called you stupid.

7 A. She called me stupid.

8 Q. A retard?

9 A. Retard.

10 Q. And fuzzy bunny?

11 A. Fuzzy bunny.

12 Q. Any other ways in which Bobbi made fun of you?

13 A. No, I don't think so.

14 Q. Okay.

15 A. Not at this time, I can't think of anything
16 right now.

17 Q. You still work with Bobbi?

18 A. No, she -- they fired her.

19 Q. Do you know why they fired her?

20 A. No, I do not.

21 Q. When was the last time you saw Bobbi?

22 A. I want to say two weeks ago when she came into
23 the store to buy some stuff.

24 Q. Did you talk to her?

1 A. Mistreating me, Shelia?

2 Q. Yeah.

3 A. I know it was last year that's -- she ain't
4 been saying anything to me this year. She been talking
5 to me nicely this year. She ain't been saying any mean
6 things this year at all.

7 Q. Do you know why she's changed this behavior?

8 A. No, I do not.

9 Q. I had asked you previously about who had made
10 fun of you at Big Lots, you also identified Pam.

11 A. Pam Kelly, yeah.

12 Q. What's Pam's last name?

13 A. Kelly, I think that's her last name. No --
14 yeah, I want to say Pam Kelly. I might be wrong.

15 Q. Okay.

16 A. She don't work there no more either.

17 Q. When's the last time you worked with Pam, that
18 you recall?

19 A. That, I don't remember. It's been years --
20 it's been a couple years.

21 Q. And do you know why Pam's no longer at
22 Big Lots?

23 A. No, I do not.

24 Q. What was Pam's job at Big Lots when she was

1 **there?**

2 A. That, I do not recall.

3 **Q. Did she work at a cash register with you?**

4 A. I think so. I think she used to do that.

5 **Q. Did -- what did Pam do to make fun of you?**

6 A. She would -- only thing that she would do is
7 she would mock me. And other than that, that's about
8 the only thing that she did. And she didn't do as much
9 as Kellie and Bobbi and Shelia did.

10 **Q. What did she do to mock you?**

11 A. If I would say something, she would go and
12 say -- try to say the same thing, but slur her words.

13 **Q. Do you recall how many times she did that?**

14 A. I wouldn't hear her but, say, maybe a few
15 times.

16 **Q. Was she -- she was repeating --**

17 A. What I would say.

18 **Q. -- what you would say?**

19 A. Yeah.

20 **Q. Was she doing the repeating to you or to**
21 **someone else?**

22 A. She would just say it just to say it. Even
23 though --

24 And I would say, "Pam, that's not nice."

1 And how about you mentioned Kellie -- Kellie's
2 last name?

3 A. Kellie Graham.

4 Q. When's the last time you worked with Kellie
5 Graham?

6 A. Couple years ago.

7 Q. Is she employed at Big Lots?

8 A. No.

9 Q. Do you know when the last time she was -- a
10 couple years ago was the last time she worked there.

11 A. Yes.

12 Q. Do you know why her employment at Big Lots
13 ended?

14 A. No.

15 Q. What position did she hold at the time she
16 left?

17 A. She was a key holder.

18 Q. Do you know what she did as a key holder?

19 A. She did everything as a manager. She opened,
20 closed. Ran the store just like the managers do.

21 Q. And how did Kellie Graham make fun of you?

22 A. By calling me names. "Retarded," "stupid,"
23 "dumb".

24 Q. More than once?

1 And I just looked at her and said, "You know
2 what, I can't read."

3 And I threw the box at her.

4 And when I threw the box at her, she picked it
5 up.

6 And she says, "We're going to have a
7 discussion after this."

8 I said, "That's fine."

9 And whenever we got done, I looked at her and
10 I told her, I said -- when we got done with the truck
11 and stuff --

12 I looked at her and I said, "Don't you ever
13 call me stupid again," I said, "or you can do the truck
14 yourself."

15 **Q. Do you recall when this incident was?**

16 A. No, I do not. And ever since then, we've been
17 friends.

18 **Q. Were you and Ms. Eddleman and Ms. Blackburn**
19 **kind of considered a clique in the store?**

20 A. No. We was friends, yeah. Whenever they went
21 for breaks or something, they would always come and get
22 me and take me. Because I would never take breaks or
23 lunch or anything. I would always keep busy, keep doing
24 what I was supposed to be doing. Stock or furniture,

1 whatever.

2 So one of them always came and got me. And we
3 would go out and smoke -- well, they would smoke
4 cigarettes and I would just stand there and talk to them
5 for a little bit.

6 **Q. So the three of you would take breaks**
7 **together.**

8 A. Sometimes, yes.

9 **Q. Okay.**
10 **Would Pam and Bobbi and Kellie take breaks**
11 **together?**

12 A. Yes. They'd go back to the office.

13 **Q. They took their breaks in the office.**

14 A. Yes.

15 **Q. And you and Ms. Eddleman and Ms. Blackburn**
16 **would take breaks outside.**

17 A. We go out outside like we was supposed to.
18 And that's not always, because there were times that
19 Tisha and Sheria would go out, and there's times that me
20 and Sheria would go out, and then there's times that
21 we'd all take separate breaks. It wasn't an everyday
22 thing that we did, you know, 24 hours a day or anything.
23 Because some of us had to work.

24 Whenever I started working with Sheria over

1 there in furniture, that's whenever me and Sheria took a
2 lot of breaks together. Because we'd lift all that
3 furniture and stuff together and everything.

4 And she would say, "Come out and have a -- you
5 know, get some air."

6 Q. Did -- was Ms. Eddleman ever present when
7 Kellie, Bobbi, Pam or Shelia made fun of you?

8 A. Sometimes she was present. She was working.
9 I don't know if she ever heard them call me anything or
10 anything.

11 Q. When you say "present" -- that she was just in
12 the store?

13 A. She was just at the store, working.

14 Q. She wasn't with you when it was going on.

15 A. No.

16 Q. Okay.

17 Did you ever tell Ms. Eddleman about being
18 made fun of?

19 A. Yes.

20 Q. At the same time it happened?

21 A. Yes.

22 Q. Do you recall any specific conversations with
23 her about that?

24 A. The only thing I would tell her -- because she

1 A. Yes.

2 Q. And you have not looked for work during that
3 time.

4 A. No.

5 Q. Do you have any plans to look for work in the
6 near future?

7 A. In the future? Probably, maybe, if I can make
8 more money somewhere, yeah.

9 Q. If an opportunity came up, you would explore
10 it?

11 A. Yeah, I'd do it, yeah. Who wouldn't?

12 Q. I guess my question -- are you actively doing
13 anything to look for such an opportunity?

14 A. No.

15 Q. Okay.

16 So your plan for now is to stay with The Lunch
17 Box 40 hours a week and part time at Big Lots.

18 A. As of right now, yes.

19 Q. Okay.

20 And that could change if you found an
21 opportunity that was better.

22 A. Well, Vickie said that the opportunity of the
23 furniture manager position might come back open --

24 Q. Okay.

1 A. -- at the Elkins Big Lots. So I was thinking
2 about taking -- applying for it, if it does, and see
3 where it goes from there.

4 **Q. Okay.**

5 A. Because they're always talking about leaving.
6 So I was thinking about applying for it. And like I
7 told Vickie, that's something I might do. So --

8 **Q. Okay.**

9 A. And then if that happens, then I'm going to
10 leave The Lunch Box, because I'll get benefits and
11 everything at the Big Lots.

12 **Q. Okay.**

13 **Who was talking about leaving?**

14 A. Daryl -- I don't know what his last name is.
15 Vickie Hamrick, the manager there now, she was telling
16 me about it.

17 **Q. Okay.**

18 A. That he was talking to her about quitting.

19 **Q. Daryl's currently the furniture --**

20 A. And Daryl's the furniture manager right now.

21 **Q. Okay.**

22 A. And like I told Vickie, I might have to redo
23 everything, restudy everything, because I'm not -- we
24 got new furniture and stuff. I'm not familiar with

1 she is. She was some -- she's no longer with the
2 company, but she was somebody that came down to -- had
3 some interviews with some people.

4 Q. Okay.

5 And how do you know Billie Jo's no longer with
6 the company?

7 A. That's what everyone told me, she was no
8 longer with the company.

9 Q. So take a step back to the conversation with
10 Ms. Blackburn in the bathroom. And she calls --

11 A. She didn't say --

12 Q. -- she called Dave.

13 A. No, when we was in the bathroom, she was just
14 trying to take care of me.

15 Q. Okay.

16 A. Getting me calmed down. And then she asked me
17 what happened, and I told her. And then when I told her
18 that the girls was, you know, picking on me and making
19 fun of me up there -- well, she knew what the girls
20 names was, was Shelia and Bobbi and Kellie. She went
21 over to -- she said okay.

22 Once we got done with that, she went up to the
23 register -- to the furniture register, and that's
24 whenever she called Dave and then that's when she called

1 **Ms. Blackburn left the store --**

2 A. Do not know for sure.

3 Q. -- that Billie Jo came down?

4 Was it a couple days, couple weeks?

5 A. I think it was a couple weeks.

6 Q. Did you take any notes about your -- the --
7 **Billie Jo's investigation?**

8 A. No.

9 Q. Why not?

10 A. Because I was just telling her what happened,
11 and then that was it.

12 Q. Did you give Billie Jo the notes that you had
13 **been keeping at home?**

14 A. No.

15 Q. Why not?

16 A. Because those were, like I said, that was my
17 diary, and I didn't give them to her. That was back in
18 2013, I didn't have nothing back then.

19 Q. You think the conversation -- the --
20 **Billie Jo's investigation was in 2013.**

21 A. Yeah, I think so.

22 Q. Did you start keeping the notes in your diary
23 **at home before or after --**

24 A. After.

1 Q. -- your conversation with Billie Jo?

2 A. After. It was late 2014.

3 Q. Was when you started keeping them.

4 A. Uh-huh.

5 Q. Are you still taking notes about any
6 mistreatment that happens at work?

7 A. No.

8 Q. When did you stop taking notes about your --

9 A. 2016. Beginning of 2016.

10 Q. So you kept notes from late 2014 to early
11 2016.

12 A. Something like that. But it's not, like,
13 constantly. It was just like a couple here and there.

14 Q. Okay.

15 A. Stuff really, you know, hurt my feelings.

16 Q. What happened in early 2016 that --

17 A. Nothing happened in 2016.

18 Q. So did you stop taking notes because nothing
19 was happening at work?

20 A. Right.

21 Q. Okay.

22 Did you speak with Billie Jo in person?

23 A. Yes, I did.

24 Q. Where did you meet with her?

1 Q. Did she ask you to tell her all the ways in
2 which she felt you'd been mistreated?

3 A. That, I don't recall.

4 Q. Do you recall telling her about the ways you
5 felt you had been made fun of?

6 A. Yes. And I gave her the names too.

7 Q. Okay.

8 Did you feel like you got to -- that you told
9 her everything that you could remember at that time?

10 A. Yes. That was happening to me at that time,
11 yes.

12 Q. Do you recall anything that she told you?

13 A. No.

14 Q. Did she tell you what -- she tell you to do
15 anything after the interview?

16 A. During the -- I do remember her saying that if
17 I have any problems or anything, I can give her a call.
18 And she gave me her card.

19 Q. Like a business card?

20 A. Yeah.

21 Q. Okay.

22 Did you ever call her?

23 A. No.

24 Q. Did you understand that Billie Jo came from

1 the Big Lots HR department, human resources?

2 A. No.

3 Q. Did you see her in the store after this
4 interview?

5 A. No.

6 Q. You never saw her again, just the one time.

7 A. Just the one time. I've heard she'd been in
8 the store, but I wasn't present when she was in the
9 store.

10 Q. Are you certain of that, or you just don't
11 recall?

12 A. No, that's what I remember.

13 Q. You're certain that you didn't -- you had
14 never seen her since the interview?

15 A. Right.

16 Q. Okay.

17 After your -- the interview with Billie Jo,
18 did the mistreatment stop?

19 A. For a while. About two, three months.

20 Q. And in two or three months it started.

21 A. Yeah.

22 Q. Same people?

23 A. Same people.

24 Q. Same kind of conduct?

1 A. Same kind.

2 Q. Did you call Billie Jo?

3 A. No.

4 Q. Why not?

5 A. I told David Perry about it, try and give it
6 back to him. Because he just kept telling me that he
7 didn't want anyone to come to the store and stuff, that
8 he would take care of it, he'd take care of it. And so
9 I'd try to leave it up to him. But he never did.

10 Q. So did you think that at this point that Dave
11 Perry was going to put a stop to things, when you told
12 him about it?

13 A. I was hoping that he would.

14 Q. But he hadn't in the past.

15 A. But he didn't do it in the past and he didn't
16 do it in the future.

17 Q. So why didn't you call Billie Jo then?

18 A. Because, like I said, he told me that he
19 didn't want no one to come down to the store, he wanted
20 me to try to keep -- he would take care of it and he
21 would solve the problem. And Tisha -- Sheria Blackburn,
22 she got tired of it one night and she put a stop to it.

23 Q. But Billie Jo came after the call from --
24 right, from after Mrs. Blackburn's call?

1 fun of by four different associates. Is it -- just to
2 get the basic timeline -- under Donna, your first
3 manager, there was one incident with Shelia, that Donna
4 spoke to her about. And under Dave Perry, there were a
5 number of incidents that you spoke with him about. And
6 then after Dave left, the mistreatment stopped.

7 A. Yes.

8 Q. Okay.

9 A. Yes.

10 Q. So except for the one instance with Donna, all
11 of the mistreatment took place while Dave Perry was the
12 store manager.

13 A. Yes.

14 Q. Other than your interview with Douglas
15 Browning, did you have any interactions with him?

16 A. No.

17 Q. Did you notice any changes that he brought to
18 the store or policies or procedures?

19 A. No.

20 Q. Do you believe that Mr. Browning treated you
21 unfairly in any way?

22 A. Yes. He didn't take care of anything.

23 Q. What did he not take care of?

24 A. What everybody said that he was supposed to

1 under oath. Do you understand that?

2 A. Yes.

3 Q. Okay.

4 I want to go over a couple documents with you
5 not in much detail, but just to see if you have seen
6 them before.

7 MR. CLARK: We'll mark them all at once.

8 * * *

9 (Whereupon, Johnson Deposition
10 Exhibit Nos. 8, 9, 10 and 11 were marked for purposes of
11 identification.)

12 * * *

13 BY MR. CLARK:

14 Q. I'll hand you Exhibit 8 and 9. This one is
15 10, and that's 11.

16 If we could start just with Exhibit 8. I
17 marked four exhibits and handed them to you, marked 8,
18 9, 10 and 11. Just looking at Exhibit 8, do you
19 recognize Exhibit 8 as Big Lots' Equal Employment
20 Opportunity Policy?

21 A. Yes.

22 Q. And did you see this document as a Big Lots
23 employee?

24 A. Do what now?

1 Q. Did you see or receive a copy of this policy
2 as part of your employment at Big Lots?

3 A. Yes.

4 Q. Do you recall how you accessed, whether --

5 A. I got this from Donna.

6 Q. Okay.

7 That was your original store manager.

8 A. Yes.

9 Q. Okay.

10 Turning to Exhibit 9.

11 A. (Witness complies.)

12 Q. Do you recognize this as Big Lots'
13 Harassment-Free Environment Policy?

14 A. Yes.

15 Q. Did you also receive this policy from Donna?

16 A. Yes.

17 Q. Okay.

18 Let's look at Exhibit 10.

19 A. (Witness complies.)

20 Q. Do you recognize Exhibit 10 as a Standard of
21 Conduct policy at Big Lots?

22 A. Yes.

23 Q. And did you receive this policy from Donna
24 around the time you were hired at Big Lots?

1 A. Yes.

2 Q. And the last one, Exhibit 11, do you recognize
3 Exhibit 11 as Big Lots' Open-Door Policy?

4 A. Yes. I got this from Donna too.

5 Q. Okay.

6 Do you have -- currently as a Big Lots
7 associate, do you have access to employment policies?

8 A. What do you mean?

9 Q. Do you have -- you're currently a Big Lots
10 associate, correct?

11 A. Yes.

12 Q. Do you have current copies of Big Lots
13 employment policies?

14 A. Do I have copies?

15 Q. Yes.

16 A. Yes. In my files at the house.

17 Q. Okay.

18 Do you -- are those the current policies or
19 are those --

20 A. When I first started.

21 Q. Okay.

22 A. Nothing new.

23 Q. Okay.

24 You testified earlier, if you recall, about

1 the furniture manager position that you sought in early
2 2015.

3 A. Yes.

4 Q. And that was the position that was opened up
5 when Ms. Blackburn left Big Lots employment?

6 A. Yes.

7 Q. And I believe you testified you applied for
8 that position.

9 A. Yes.

10 Q. Right.

11 On the computer.

12 A. Yes.

13 Q. Do you know why Ms. Blackburn left Big Lots?

14 A. She was -- she gave an -- what's that word --
15 ultimatum -- she either had to quit one job or quit Big
16 Lots --

17 Q. Okay.

18 A. -- might as well say. That's what Dave told
19 her.

20 Q. Dave told you that or --

21 A. Dave told Sheria that, and I was right in
22 front of Sheria whenever he told her that.

23 Q. Okay.

24 And did he also say that she couldn't stay on

1 A. Yes.

2 Q. -- what you said. I want to show you these.

3 MR. CLARK: I marked this as Exhibit 12.

4 MR. MURRAY: Yes.

5 BY MR. CLARK:

6 Q. Have you seen these notes before?

7 A. No.

8 Q. Okay.

9 If you could take a look at -- just the --
10 focus on the first page.

11 It says: Not good here. When Keith, Kellie
12 work together, Keith is mean. When Keith is not here,
13 Kellie stays up-front and won't put away freight.

14 It's the first paragraph. Do you see that?

15 A. Uh-huh.

16 Q. Do you recall telling Billie Jo Bishop that
17 things were not good at the store when Keith and Kellie
18 worked together?

19 A. Yes.

20 Q. Okay.

21 Does this -- just looking at this paragraph,
22 is this -- does that refresh your recollection as to
23 something that you told Ms. Bishop?

24 A. Yes.

1 You know, she doesn't specifically say, you
2 know, my name or their names. She specifically said,
3 like, stockers or managers or -- she wouldn't say names
4 to me.

5 **Q. Okay.**

6 **Were there people in the store that liked**
7 **Kellie?**

8 A. That, I could not tell you.

9 **Q. Were there other people in the store that did**
10 **not like Kellie?**

11 A. That, I could not tell you either.

12 **Q. Next line says: "Kellie sabotages Tisha."**

13 A. Yes. She did do that a lot.

14 **Q. How do you know that?**

15 A. Because that's when -- because Tisha would be
16 back there working on freight and stuff, then she would
17 go back there and she would just criticize her when she
18 was working on freight. She would criticize her if she
19 didn't work on freight.

20 **Q. Okay.**

21 A. So she was always doing -- sabotaging,
22 teasing, you know, always picking on her for one thing
23 or the other, for the freight.

24 **Q. Okay.**

1 You got the manager, and then you got the assistant
2 manager, and then you got the two stock managers, and
3 then you got the furniture manager.

4 Q. Okay.

5 So you did not apply for the position that
6 Vickie got?

7 A. No.

8 Q. Okay.

9 And you recall, in regards to this position,
10 Mr. Perry telling you that you didn't have the
11 management experience.

12 A. Yes.

13 Q. Did you agree with him that you were not
14 qualified for that position?

15 A. Yeah, because I know I don't have that much
16 experience on that, yes.

17 Q. Okay.

18 A. But the other two positions that I tried for,
19 well, I was going to try for, he told me I didn't
20 qualify for those ones. And then the furniture manager,
21 I did apply for it.

22 Q. Okay.

23 * * *

24 (Whereupon, Johnson Deposition Exhibit

1 You said earlier that the -- you haven't been
2 mistreated since Dave Perry left.

3 A. Yes.

4 Q. Under Vickie and Rich, things are okay.

5 A. Yes.

6 Q. Are you feeling better now than then?

7 A. Yes.

8 Q. Okay.

9 When did you -- the symptoms you described,
10 when did you start experiencing those; do you recall?

11 A. I do not know.

12 Q. Okay.

13 Did you ever experience those symptoms while
14 Donna was your manager?

15 A. No.

16 Q. Okay.

17 Did you ever see a doctor for --

18 A. No.

19 Q. -- any treatment?

20 A. I never had time.

21 Q. See a counselor?

22 A. No.

23 Q. Was there ever a time where you didn't come to
24 work because of the symptoms?

1 you were going to apply for the job, he told you that
2 the position had already been given to Bobbi.

3 A. Yes, that he's giving it to Bobbi.

4 Q. Okay.

5 If you could look down at the next -- the line
6 that says October 2015: "CP states in October of 2015,
7 a full-time assistant team leader position was open.
8 And CP states she applied online and in November CP was
9 interviewed by Douglas Browning."

10 A. No, I was applied by -- with the furniture and
11 not that, because I knew I couldn't do that one.

12 Q. Okay.

13 Do you know why Ms. Robertson's notes reflect
14 something different?

15 A. No, I don't know why that's like that. But it
16 shouldn't have been like that. Because I didn't apply
17 for that job, because I knew I couldn't handle that job.
18 That's why I didn't apply for that job.

19 Q. For the one that Vickie Hamrick --

20 A. Right.

21 Q. -- got. Okay.

22 Do you specifically recall your conversation
23 with Ms. Robertson regarding the furniture position in
24 January of 2015?

1 A. Yeah. I told her about how I was wanting the
2 position of the furniture since Sheria -- since Sheria
3 left, I was -- I'm applying for the job in furniture.
4 And so then I told her that when I told Dave that I was
5 going to apply, he told me not to bother with it because
6 he was going to give it to Bobbi. But I went ahead and
7 applied for it. Because I wanted to take -- I wanted to
8 have an opportunity to get that position, because I knew
9 furniture very, very well. And that's why I applied for
10 that position.

11 Q. Okay.

12 So Exhibit 14 does not accurately reflect your
13 statement to Ms. Robertson.

14 A. No, no.

15 Q. Okay.

16 A. None of that.

17 Q. And at the top it said -- that same section
18 says: "Promotion; CP states she's qualified for the
19 following position and helped train the person
20 selected."

21 Would you agree with me that you were not
22 qualified for the assistant team leader position
23 described in October of 2015?

24 A. Yeah, I didn't qualify for that job.

1 **Q. Okay.**

2 **And you didn't help train Vickie Hamrick.**

3 **A. No, I just -- I showed her a couple things.**

4 **But, no, not like I done everything for Tisha, no.**

5 **Q. And you've not seen those notes before today.**

6 **A. No.**

7 MR. CLARK: We may be receiving some
8 additional documents. If that requires further
9 testimony from you, we'll be in touch. But those are
10 all the questions I have for you for today.

11 THE WITNESS: Okay.

12 MS. HERNANDEZ: I just have a couple
13 questions for you, Christena.

14 THE WITNESS: Okay.

15 * * *

16 E X A M I N A T I O N

17 BY MS. HERNANDEZ:

18 **Q. You testified earlier that you earned \$8.75 an**
19 **hour at The Lunch Box; is that right?**

20 **A. Yes.**

21 **Q. Okay.**

22 **When did you start earning \$8.75 an hour?**

23 **A. Last year.**

24 **Q. Do you know when?**

1 THE STATE OF :
 2 WEST VIRGINIA :
 3 : SS: C E R T I F I C A T E
 4 COUNTY OF OHIO :
 5

6 I, CONNIE M. NICHOLS, Registered Professional
 7 Reporter, CLR and Notary Public within and for the State
 8 of West Virginia, duly commissioned and qualified, do
 9 hereby certify that the within-named witness,
 10 CHRISTENA JOHNSON, was by me first duly sworn to testify
 11 to the truth, the whole truth and nothing but the truth
 12 in the cause aforesaid.

13 I do further certify that the testimony was by
 14 me reduced to stenotype in the presence of the witness;
 15 afterwards reduced to Computer Aided Transcription under
 16 my direction and control; that the foregoing is a true
 17 and correct transcription of the testimony given by said
 18 witness.

19 I do further certify that I am not a relative,
 20 counsel or attorney of either party, or otherwise
 21 interested in the event of this action.

22 I, to the best of my ability, do hereby
 23 certify that the attached transcript meets the
 24 requirements set forth within Article 27, Chapter 47 of
 the West Virginia Code.

IN WITNESS THEREOF, I have hereunto set my
 hand and affixed my seal of office at Wheeling,
 West Virginia, on the 14th day of May 2018.

Connie M. Nichols

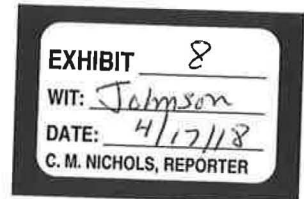
CONNIE M. NICHOLS, RPR
 Notary Public within and for
 the State of West Virginia

My Commission expires:
 October 16, 2021



10/1/13

Big Lots HR Policy Web

[Print Policy](#)**Equal Employment Opportunity****Last update: April 2012**

No person shall be discriminated against in employment because of race, religious creed, color, age, sex, sexual orientation, gender identity, national origin, religion, marital status, medical condition, genetic information, disability, military service, pregnancy, childbirth and related medical conditions, or any other classification protected by federal, state, and local laws and ordinances.

This policy applies to all terms and conditions of employment including, but not limited to hiring, training, promotion, transfer, demotion, compensation, benefits, and termination.

The Executive Vice President is responsible for formulating, implementing, coordinating, and monitoring all efforts in the area of equal employment opportunity.

Each manager is responsible for initiating and administering this policy within his/her store/department.

Every associate is expected to adhere to the guidelines set forth in this policy in both practice and spirit.

Any formal or informal allegation that this policy has been violated should be referred immediately to Human Resources.

Employing Persons with Disabilities

Qualified individuals with disabilities are to be treated in a nondiscriminatory manner in the pre-employment process and in all terms, conditions, and privileges of employment.

All medical-related information is to be maintained in a confidential manner in separate, confidential files.

Applicants and associates with disabilities are to be provided reasonable accommodation, except where making an accommodation would create an undue hardship on the Company or would pose a direct threat to the health or safety of employees or others.

All requests for reasonable accommodation from qualified applicants and associates with disabilities are to be referred to the appropriate Human Resources manager. The Company will make a good faith effort to assist individuals seeking accommodations.

In determining the feasibility of the requested accommodation, the Company will consider the preference of the individual to be accommodated and, if there are two or more effective accommodations, will choose the least expensive or most practical accommodation.

Accommodation is generally initiated by a request from an applicant or associate. Situations may arise where an associate, who is known to have a disability, may be having difficulty performing the essential functions of his/her job and therefore, may need accommodation. The associate's supervisor should discuss the matter with the appropriate Human Resources manager. The Human Resources manager will advise the associate's supervisor on how to initiate a discussion with the associate.

Religious Accommodation

The Company will also reasonably accommodate otherwise qualified job applicants and associates with religious beliefs or practices, unless doing so would impose an undue hardship.

Violations of this policy may result in disciplinary action, up to and including termination of employment. (See Confidential Information, Harassment-Free Environment, Open Door)

10/1/13

Big Lots! HR Policy Web

[Print Policy](#)

EXHIBIT 9
 WIT: Johnson
 DATE: 4/17/18
 C. M. NICHOLS, REPORTER

Harassment-Free Environment**Last update: April 2012**

Big Lots strictly prohibits harassment and/or discrimination based on race, religious creed, color, age, sex, sexual orientation, gender identity, national origin, religion, marital status, medical condition, genetic information, disability, military service, pregnancy, childbirth and related medical conditions, or any other classification protected by federal, state and/or local laws and ordinances.

Each supervisor or manager is responsible for maintaining a work environment that is free of harassment both sexual and otherwise. This includes communication of this policy to all associates and assuring that they are not subjected to insulting, degrading or exploitative behavior as defined below.

The Company does not tolerate harassment of our job applicants, contractors or associates by another associate, supervisor, vendor, customer, or any third party. Any form of harassment on the basis of race, religious creed, color, age, sex, sexual orientation, gender identity, national origin, religion, marital status, medical condition, genetic information, disability, military service, pregnancy, childbirth and related medical conditions, or any other classification protected by federal, state and local laws and ordinances is a violation of this policy and will be treated as a disciplinary matter. The Company has zero tolerance for harassment and is committed to a workplace free of any harassment.

Harassment Defined. Harassment as defined in this policy is unwelcome verbal, visual or physical conduct creating an intimidating, offensive, or hostile work environment that interferes with work performance. Harassment can be verbal (including slurs, jokes, insults, epithets, gestures or teasing), graphic (including offensive posters, symbols, cartoons, drawings, computer displays, or e-mails) or physical conduct (including physically threatening another, blocking someone's way, etc.) that denigrates or shows hostility or aversion towards an individual because of any protected characteristic. Such conduct violates this policy, even if it is not unlawful. Because it is difficult to define unlawful harassment, associates are expected to behave at all times in a professional and respectful manner.

Sexual Harassment Defined. Sexual harassment can include all of the above actions, as well as other unwelcome conduct, such as unwelcome or unsolicited sexual advances, requests for sexual favors, conversations regarding sexual activities and other verbal or physical conduct of a sexual nature. Examples of conduct that violates this policy include: unwelcome sexual advances, flirtations, advances, leering, whistling, touching, pinching, assault, blocking normal movement; requests for sexual favors or demands for sexual favors in exchange for favorable treatment; obscene or vulgar gestures, posters, or comments; sexual jokes or comments about a person's body, sexual prowess, or sexual deficiencies; propositions, or suggestive or insulting comments of a sexual nature; derogatory cartoons, posters, and drawings; sexually-explicit e-mails or voicemails; uninvited touching of a sexual nature; unwelcome sexually-related comments; conversation about one's own or someone else's sex life; conduct or comments consistently targeted at only one gender, even if the content is not sexual; and teasing or other conduct directed toward a person because of the person's gender.

All such conduct is unacceptable in the workplace and in any work-related settings such as business trips and business-related social functions, regardless of whether the conduct is engaged in by a supervisor, co-worker, client, customer, vendor or other third party.

Reporting Procedures. The following steps have been put into place to ensure the work environment at Big Lots is respectful, professional, and free of harassment. If an associate believes someone has violated this policy, the associate should promptly bring the matter to the immediate attention of his or her manager or the appropriate Human Resources Manager.

Investigation Procedures. The Company will promptly investigate the facts and circumstances of any claim of harassment. To the extent possible, the Company will endeavor to keep the reporting associate's concerns confidential. During the investigation, the Company generally will:

- Interview the complainant and the alleged harasser

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- conduct further interviews as necessary
- document the Company's findings regarding the complaint
- document recommended follow-up actions and remedies, if warranted
- inform the complainant of the Company's findings.

Every manager or supervisor who learns of any associate's concerns about conduct in violation of this policy, whether in a formal complaint or informally, must immediately report the issues raised to the appropriate Human Resources Manager.

All associates are expected to fully cooperate with internal investigations that may be initiated by the Company to examine any perceived violation of Company policy or procedure or any other matter. This includes, but is not limited to, maintaining an appropriate level of discretion regarding the investigation and disclosing any and all information that may be pertinent to the investigation.

Upon completion of the investigation, the Company will take corrective measures against any person who has engaged in conduct in violation of this policy, if the Company determines such measures are necessary. These measures may include but are not limited to, counseling, suspension, or immediate termination. Anyone, regardless of position or title, whom the Company determines has engaged in conduct that violates this policy will be subject to discipline, up to and including termination.

No Retaliation. No associate will be subject to, and the Company prohibits, any form of discipline or retaliation for reporting perceived violations of this policy, pursuing any such claim, or cooperating in any way in the investigation of such claims. If an associate believes someone has violated this no-retaliation policy, the associate should bring the matter to the immediate attention of his or her manager or the appropriate Human Resources Manager. Anyone, regardless of position or title, whom the Company determines has engaged in conduct that violates this policy against retaliation will be subject to discipline, up to and including termination.

We cannot remedy claimed harassment or retaliation unless the associate brings these claims to the attention of management. Failure to report claims of harassment and/or retaliation prevents us from taking steps to remedy the problem.

This policy is intended to be in compliance with all Federal laws, specifically Title VII of the Civil Rights Act of 1964, and all State and Local laws dealing with unlawful discrimination and/or harassment. (See Equal Employment Opportunity, Open Door, Standards of Conduct)

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[Print Policy](#)

EXHIBIT 10
 WIT: Johnson
 DATE: 4/17/18
 C. M. NICHOLS, REPORTER

Standards of Conduct**Last update: February 2012**

Associates are expected to conduct themselves in a way that is conducive to an ethical business environment. Violations of company policy, public policy, or local, state, and federal laws will not be tolerated. Conduct is expected to reflect our Company's values at all times.

The following behaviors are unacceptable deviations from the Company Standards of Conduct:

1. Violation of the Harassment-Free Environment Policy.
2. Physical assault or attempted assault on another associate, customer or vendor.
3. Engaging in conversation, gestures or behaviors that are considered lewd, offensive, abusive, and profane or threatening to associates, customers and/or vendors.
4. Inappropriate fraternization, including having an intimate relationship with another associate whom you supervise, either directly or indirectly, or over whom you exert some influence or control by nature of your responsibility.
5. Violation of the Drug-Free Workplace Policy, including but not limited to consuming intoxicating beverages or use of illegal drugs during scheduled work time; or reporting to work under the influence of intoxicating beverages or illegal drugs.
6. Smoking or use of tobacco products in an unauthorized manner or area (See Smoke Free Policy).
7. Conduct which results in a substantial risk of harm to a customer or another associate, or damage to Company property.
8. Possession of weapons, including but not limited to, knives, firearms, explosives, or other instruments that may cause harm to others, opened intoxicating beverages, or illegal drugs on Company property, including parking lots, or while conducting Company business.
9. Conviction of a criminal offense for a crime against the Company or related to the type of responsibilities performed for the Company.
10. Dishonest activities such as, theft, selling merchandise at a price lower than that which is marked on the goods without authorization, consumption or use of merchandise that has not been previously purchased by the associate or approved by management.
11. Violation of minor labor laws for those associates under eighteen (18) years of age. *NOTE: Associates less than eighteen (18) years of age are not permitted to load, unload or otherwise operate the cardboard baler. These associates are also not permitted to operate any type of power equipment. (See Employment of Minors Policy).*
12. Violation of the No Solicitation Policy.
13. Unauthorized use of Company property, facilities or resources (See Systems and Information Security Policy).
14. Unauthorized divulgence of personnel records or Company business (See Confidential Information Policy).

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15. Insubordination by refusing to complete lawful work as assigned by a manager. In the event of conflicting instructions, the associate should follow the directions of the manager-on-duty and later request clarification.
16. Unsatisfactory work performance including disregard of established safety practices and rules.
17. Failure to cooperate with Company investigations or inspections.
18. Excessive absenteeism or tardiness (See Attendance Policy).
19. Working before or after scheduled time without authorization from management.
20. Job abandonment, which includes two (2) consecutive days absence from scheduled work without calling into management (See Call-In Procedure Policy) or walking off the job without notifying management. These occurrences are considered voluntary terminations (See Termination of Employment Policy).
21. Falsification of documents or records including but not limited to, employment application, expense reports, price change documents, timecards, permitting another associate to clock in or out for you, production reports, payroll management documents, etc.
22. Misuse of the associate discount privilege by permitting someone not eligible to purchase items with the associate discount or by returning merchandise for a full refund when purchased with the associate discount (See Associate Discount Policy).
23. Associates are not permitted to hold or hide merchandise for purchase at a later time. Associates may not purchase merchandise unless it is available for sale to the general public.
24. The writing of bad checks to the Company or failing to repay funds owed to the Company.
25. The following violations are store specific:
 - a. Any violation of established shopping regulations including processing unauthorized markdowns and/or ringing sales or handling any other transaction (i.e., returns, cashing checks, etc.) of your own or any immediate relative.
 - b. Improper use of "paid outs".
 - c. Cashing checks.
 - d. Use or unauthorized removal of store funds, or other Company resources, for personal use.
 - e. Unexplained single incident till variance of \$50 or greater where till integrity has been maintained.
 - f. Single till variance of \$5 or more, and/or variances of \$15 or more in a 30-day period.
 - g. Failure of store associates to perform established procedures, including but not limited to, the following:
 - i. Completing daily bank deposits.
 - ii. Securing funds properly.
 - iii. Maintaining accountability for all funds transactions.

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- iv. Conducting "cash pickups" when cash totals in excess of \$1500 in drop box and till.
- v. Ensuring that Register operator "till drops" are made when cash exceeds \$100 of paper currency in till.
- vi. Ensuring all doors are locked and alarms set as required.
- vii. Ensuring all safety exits are accessible.
- viii. Securing safe, as required including maintaining confidential safe combination.
- ix. Maintaining key control and confidential manager codes.
- x. Ensuring that store security cameras are operating daily and tapes maintained as required.
- xi. Allowing only authorized associates in controlled areas (i.e., stock room, cash office, etc.).

26. Violation of the Insider Trading Policy or the Insider Trading Policy for Directors and Section 16 Officers.

27. Violation of the Information Disclosure Policy.

28. Violation of the Code of Business Conduct and Ethics or the Code of Ethics for Financial Professionals.

29. Violation of any other Company rules/regulations or any other action/activity that is deemed to be detrimental to the orderly operation of our Company.

Associates are expected to comply with this Policy and report violations immediately. In all of the above instances, the severity of an individual violation may warrant immediate termination. However, only those persons with the approval to terminate can make this determination (See Termination of Employment Policy).

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[Print Policy](#)

EXHIBIT 11
 WIT: Johnson
 DATE: 4/17/18
 C. M. NICHOLS, REPORTER

Open Door**Last update: August 2005**

Big Lots believes in dealing directly with all associates and further believes that all associates have a right to express their opinions, concerns, and to ask any questions they may have relating to their job or the Company. Any associate with a question or problem is entitled to use the Open Door Policy and may contact anyone in the organization.

Take the question or concern to your immediate supervisor or manager.

OR

If you have a question and do not wish to discuss the matter with your direct manager or supervisor, go to the next level manager.

OR

If you have a question or you just feel uncomfortable discussing the issue with one of the managers listed above, contact the appropriate member of the Human Resources Department:

- Store Associates: Contact the Regional Human Resources Manager.
- Distribution Associates: Contact the Distribution and Transportation Services Human Resources Manager.
- General Office Associates: Contact the General Office Human Resources Manager.

Associates wishing to make anonymous complaints or ask a question may call the Get Real Hotline at 1-866-834-REAL (1-866-834-7325).

All members of management are expected to maintain the integrity and communicate the spirit of the Open Door Policy.

Any attempt to thwart or retaliate against an associate for exercising his/her Open Door rights will be considered a serious violation of Company policy and may result in disciplinary action, up to and including termination of employment. (See Harrassment-Free Environment, No Solicitation, Standards of Conduct, Union-Free Environment)

EXHIBIT 12
 WIT: Johnson
 DATE: 4/17/18
 C. M. NICHOLS, REPORTER

Christena

Loi43

Not good here. When Keith + Kellre work together Keith is mean. When Keith is not here, Kellre stays up front + won't put away freight.

Sheria is training me to be an Assistant form mgr.

Bobby, Kellre + Pam - all eating food at front of store. Christena asked for help w/ 2 cx. They laughed at her + wouldn't help her... the cx helped her.

They laugh at me when I call over the speaker for help. Kellre likes to talk about everybody.

Kellre sabotages Tisha.

Dave tells everyone that he knows who is sabotaging Tisha but he can't do anything about it b/c he can't prove it.

Last Tuesday Keith allegedly 'cussed' Tisha when she was a cx.

Christena didn't observe it, Tisha told her what happened.

Christena also goes to help in Morgantown and Fairmont.

Has wanted to quit → they sat

up front + point at me and laugh.

Kellie, Pam, Bobby

Has asked Dave to watch the cameras so ~~the~~ he can see what they do.

Kellie is supposed to do HBC.

She puts it in buggies and hides it.

Couple weeks ago, Dave approached Christena + asked her to put out several carts of freight ~~to~~ and told her that Kellie was hiding the freight.

Kellie follows Keith like a puppy and just talks to him.

Tisha
Kellie
Christena } all worked at Dollar Store?

Last night Randy called Kellie for help at register. She (Kellie) stood for 10 minutes w/ Keith talking before she went to help... just talking.

If someone wants to buy furn.
after the furn person goes home,
Kellie tells them to come back the

next day. She told Dave about it. Dave said he talked to her about it.

Told Gina last week about the bullying & Gina said not to quit & Gina would see what she could do about it.

Is aware of open door. Feels comfortable talking to Dave.

Feels treated fairly w/ Dave but not w/ Kellie.

Morale is good, even w/ the issues. My mom used to work here doing recovery.

Dave asked Christena last Tuesday if Kellie is still bullying her.

Last night Kellie messed up all the money so that Tisha would be late getting out of cash office.

Feels bullied by Kellie so bad that sometimes she doesn't want to come to work.

Thine tries to make everyone happy.